

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0549P
Individual Income Tax
Calendar Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated November 5, 2002, requests an abatement of the penalty. Taxpayer states he is a bona fide resident of Canada, has a driver's license issued by Canada, has a dispatch office based in Indiana, his office is based in his residence in Canada, and his principal activity of transport driver takes him throughout Canada and the United States. Taxpayer further states that he files Indiana returns as non-residents and requests the same automatic extension of two months to file and pay tax as permitted by the IRS.

Taxpayer filed its return late with a tax balance due of \$1,170. The Department adjusted the return for an error in the Proration Section that changed the total exemptions from \$1,820 to \$1,730 resulting in additional tax in the amount of \$ 3.03.

The taxpayer did not file an extension to file the return late.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it filed its Indiana return as non-residents and requests the same automatic extension of two months to file and pay tax as permitted by the IRS.

Taxpayer remitted no tax by the original due date of the return. According to IC 6-3-4-3, returns shall be filed with the department on or before the 15th day of the fourth month following the

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close of the taxable year. IC 6-8.1-10.2.1 allows a ten percent (10%) penalty to be assessed if the full amount of tax shown on the person's return is not remitted by the due date of the return.

Taxpayer did not petition the department for a filing extension as required by IC 6-8.1-6-1(a) and has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

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